

FISH and WILDLIFE COMMISSION AGENDA ITEM COVER SHEET

Meeting Date: May 12, 2016

Agenda Item: Clark Fork Remediation Phase 5 and 6 Floodplain Closure Rule

Division: Fisheries

Action Needed: Proposed

Time Needed on Agenda for this Presentation: 5 Min

Background

The Department of Environmental Quality (DEQ) is conducting a cleanup project to remove contaminated soils in the streambanks and historic floodplain within the Upper Clark Fork River drainage. The project is part of the Milltown Reservoir/Clark Fork River Superfund Site, which includes the Clark Fork River from its headwaters below Warm Springs Ponds to the former Milltown Reservoir east of Missoula. Cleanup throughout the Superfund Site has been occurring in construction phases. Each phase is associated with a different segment of the Clark Fork River, each with different construction start and end dates. Phase 5 and 6 (Galen to Gem Back Road) is currently under construction and haul trucks and heavy equipment are operating in this area. For public safety, public access both on foot and by floating has been closed in this area while construction is underway. Construction activities are scheduled to be completed in July 2016. The current floodplain and river closure in this area of the River will also expire on July 15, 2016. Re-vegetation of the Phase 5 and 6 areas is just underway. Plants in their first growing seasons are highly vulnerable to damage from foot traffic. To allow more time for new plants to become established, it is beneficial to continue to restrict foot traffic in the floodplain, rather than open the area to public access entirely. With expiration of the current area closure, DEQ is proposing that we allow "float or wade through access only", but establish a new rule to prohibit access to the floodplain from July 15, 2016 through September 15, 2018. There are a few areas where foot access in the floodplain would not hurt the re-vegetation effort. To maximize angling opportunity while the plants are becoming established, we also propose to sign these areas as exceptions to the floodplain closure.

Public Involvement Process & Results

With Commission approval, FWP would solicit public comment on the proposed biennial closure rule and report back to the Commission with a final recommendation in July.

Alternatives & Analysis

The Commission could choose not to propose the biennial rule. The existing rule would expire on July 15. DEQ has spent over \$13 million dollars on this portion of the cleanup. Allowing floodplain access could result in significant damage to the cleanup, especially the vegetation, which would have significant harmful effects on habitat development in this area.

Agency Recommendation & Rationale

FWP recommends that the Commission propose a biennial rule to close floodplain areas from Galen to Gem Beck Road, initiating a public comment process. The rule would allow public access through the Phase 5 and 6 areas by wading or floating, while protecting new plant growth and habitat development from foot traffic in the floodplain areas during the vulnerable period when new plants are first becoming established.

Proposed Motion

I move that the Commission propose a biennial rule closing the floodplain to public entry between Galen and Gen Back road (Phase 5 & 6), to protect plant growth, except as signed otherwise, effective July 15, 2016 through September 15, 2018.